

Statement of Charles E. Schumer on S. 2219, DISCLOSE Act of 2012
March 29, 2012

- Good morning. The Rules Committee shall come to order. I'd like to thank my friend, Ranking Member Alexander, for joining us and all of my colleagues at this hearing to discuss the DISCLOSE Act of 2012, which our colleague **Senator Whitehouse** introduced last week.
- The Supreme Court's *Citizens United* decision, in conjunction with other cases, has radically altered the election landscape by unleashing a flood of unlimited, often secret money into our elections.
- In response to that disastrous decision, we introduced the DISCLOSE Act of 2010 which would have increased transparency by requiring full disclosure of the real sources of money behind political advertising.
- The House passed it, the President was ready to sign it, but in the Senate, it failed to get cloture by one vote.
- Now the problem is no longer hypothetical. The public is now living with the aftermath of the Citizens United decision every time they turn on their TV sets. An endless stream of negative ads is now drowning out all other voices, including the candidates themselves.

- The events of the 2010 election cycle and what we've seen so far in 2012 have confirmed our worst fears about the impact of *Citizens United* and subsequent court decisions.
- Two years ago, we were warned about these harmful effects, but the results are even worse than expected.
- **Just this morning, we woke up to the breaking story, reported by Bloomberg News, that major corporations – including Chevron and Merck – gave millions of dollars to groups in attack ads in the 2010 elections and no one knew about it until now!** That means voters two years ago were left totally in the dark about who paid for the attack ads hitting the airwaves.
- The trend is disturbing. According to the Center for Responsive Politics – a study they did – the percentage of campaign spending from groups that don't have to disclose their donors rose from a mere 1% in 2006 to **47% in 2010**. We can only imagine by what the percentage will grow to by the end of 2012. Almost certainly over 50%. So over half of spending [will be from groups that don't disclose their donors.] That's incredible and awful in my opinion.

- And the money is coming overwhelmingly from the wealthiest Americans as you'd expect. A recent study reported in *Politico* found that 93% of the money that was contributed by individuals to SuperPACs in 2011 came in contributions of **\$10,000 or more—and here's the most astounding thing in that Politico study – half of that money came from just 37 donors.** Is that democracy?
- Even more worrisome, we are increasingly seeing contributions to SuperPACs from non-profit organizations —groups that can use the tax code to hide their sources of money – and from shadowy shell corporations. Some of these groups are nothing more than a P.O. Box in the middle of an office park.
- By now it should be clear to *everyone* that better disclosure is *desperately* needed.
- The 2012 DISCLOSE Act, introduced by **Senator Sheldon Whitehouse, our Rules colleague Senator Tom Udall, and myself among others**, and already supported by 40 Senators, is a bill that should be acceptable to people of every stripe. That's how it was designed. That's how Sheldon Whitehouse and us working with him designed it.

- The previous bill imposed bans on government contractors and foreign-owned corporations, but those bans have been taken out even though they're the right thing to do. The 2010 legislation also required reporting of donations over \$600, but that threshold has been raised to \$10,000 because, as we have seen, these huge donations dwarf that amount and make a donation of a hundreds dollar seem irrelevant.
- The new, bare-bones DISCLOSE Act has two key components: disclosure and disclaimer. And it's very simple.
- **Disclosure** means outside groups who make independent expenditures and electioneering communications should **disclose all their large donors in a timely manner. All their large donors.**
- The bill includes a way to drill down to the original source of money in order to reveal those who are using intermediaries as a conduit to obscure their true funders. Through this "covered transfer" provision, **even the most sophisticated billionaires will find it difficult to hide** behind a 501(c) organization or shell corporation.

- **Disclaimer** means that voters who are watching a political ad will know who paid for it. Under current law, **candidates** are required to “stand by” their ads – why should outside organizations engaging in this same kind of political activity be any different?
- The 2012 DISCLOSE Act would make SuperPACs 501(c)s, 527s, corporations and labor unions identify their top 5 funders in their TV ads and top 2 funders in radio ads. The leader of the organization would have to “stand by” the ad, just like candidates must do.
- Transparency is not just a Democratic priority. My colleagues on both sides of the aisle have declared their support for greater disclosure as a way to prevent corruption. And eight of nine Supreme Court justices in the *Citizens United* decision supported disclosure.
- The potential for corruption in the post-*Citizens United* era is all too clear. It’s time to get serious about full transparency. This bill would do that. That’s why we are holding this hearing, to examine the need for better disclosure and to discuss this particular legislation.
- And before we turn to our distinguished panel of experts, I want to ask my good friend, Ranking Member Alexander, and any other Member who is here, whether

they would like to make opening statements. As is our usual practice, I ask that statements by Members and witnesses be limited to five minutes. So without further ado, let me call on Ranking Member Alexander.

STATEMENTS BY COMMITTEE MEMBERS

[After all Committee Members have spoken, it is time for the panel of expert witnesses.]

- We are hearing today from a panel of three expert witnesses. At the conclusion of the panel, we will have the opportunity for a round of questions from Members of this Committee before closing the hearing.
- Now I would like to introduce our witnesses. *[See Witness Introductions tab in Briefing Book]*